

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

COURIER SOLUTIONS INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:08-cv-2254-N
	§	
CSA DELIVERY, INC., d/b/a COURIER	§	
SOLUTIONS OF AMERICA, INC.,	§	
WOODROW CLAYTON, SR., WOODROW	§	
CLAYTON, JR., DARLENE CLAYTON,	§	
ACTION COURIER & LOGISTICS, LLC,	§	
NORTH AMERICAN PRESORT, INC., and	§	
HOUSTON AREA COURIERS, INC.,	§	
	§	
Defendants.	§	

**MOTION IN LIMINE OF PLAINTIFF**

TO THE HONORABLE DAVID GODBEY, UNITED STATES DISTRICT JUDGE:

Plaintiff Courier Solutions, Inc., hereby moves the Court for an Order in Limine, ordering that Defendants, counsel for the Defendants, and witnesses called on behalf of the Defendants be prohibited from the mention of or reference to certain matters, and states the following.

1. The matters described in paragraph 3 hereof are not admissible in evidence for any purpose and have no bearing on the issues or rights of the parties in this case.

2. Permitting interrogation of witnesses, comments to jurors, prospective jurors, or the offer of evidence concerning any of these matters would prejudice the jury, and sustaining objections to such questions, comments, statements or evidence or instructing the Jury to disregard any references thereto, will not prevent prejudice, but rather, will reinforce the development of prejudicial questions, statements, comments and inadmissible evidence.

3. The matters made the subject of this motion are as follows:
  - A. That any parties may or may not be covered by any form of liability insurance insofar as the matters involved in this case are concerned; FED. R. EVID. 411;
  - B. Any inquiry made or question asked, of any juror or potential juror in this case as to any connection with the insurance industry or any instance which such juror, potential juror, or juror's family have had or may have had with liability insurance claims or coverages; FED. R. EVID. 411;
  - C. Whether any member of the jury panel would answer any questions in the Court's charge on damages, large or small, if supported by the evidence, regardless of who pays or might pay any such damages; FED. R. EVID. 411;
  - D. Any matters which have transpired between Plaintiff or its shareholders and attorneys, Emil Lippe, Jr., Royce West and Diana Laquey, including conversations or communications between such attorney and any agent or employee of Plaintiff, because any such contract or communication would be covered and excluded by the attorney-client privilege; FED. R. EVID. 501;
  - E. Any attempt or offer of settlement which have been made in this case or any reference to the fact that this lawsuit could not be settled or has not been settled, compromised, or resolved, including any comment that some cases must be brought to a jury for resolution or other similar comment or statement; FED. R. EVID. 408;
  - F. Plaintiff's election not to call any witness to testify during the trial of this case who is subject to subpoena and available to all parties in this case as a witness; *Sanders v. St. Paul Fire & Marine Ins.*, 429 S.W.2d 516 (Tex. Civ. App. 1968, writ *ref'd n.r.e.*);
  - G. Any request for production or inspection of any documents, contents or materials from the files or in the possession or control of Plaintiff or its attorney; FED. R. CIV. P. 26;
  - H. Probable or possible testimony of a witness or person who is absent, unavailable, and not called to testify in this case; FED. R. EVID. 103(c), FED. R. EVID. 602, FED. R. EVID. 802;
  - I. That Plaintiff and its shareholders or their counsel may have asserted various privileges, including but not limited to the attorney-client privilege, as well as other exceptions to pretrial discovery in this case, or that Plaintiff and its counsel have attempted to shield or protect any facts from discovery in this case; FED. R. EVID. 501; TEX. R. EVID. 513;
  - J. Any comment or statement to the jury or potential juror as to the effect of any

answers to the questions which might be or are posed in the Court's charge, regardless of whether such advice or comment is direct or indirect, and whether made by comment, reference, suggestion, argument or in any other manner. *Bartley v. Eucline, Inc.*, 158 F.3d 261 (5<sup>th</sup> Cir. 1999, *rehearing en banc*) 69 F.3d 215;

- K. Any attempts to inject issues concerning alleged improper tax reporting or alleged violations of federal income tax statutes or regulations on the part of Plaintiff, because the same are unrelated to any issues in this case and would be offered solely for purposes of prejudice.
- L. Any references to other litigation involving Plaintiff or any of its shareholders, because the same are unrelated to any issues in this case and would be offered solely for purposes of prejudice.
- M. Any mention, reference or comment, directly or indirectly, that his motion was filed, or any ruling of the Court was made with respect to this motion, or that Plaintiff and its counsel have attempted to prohibit proof or evidence in this case, because the same are unrelated to any issues in this case and would be offered solely for purposes of prejudice.

4. Plaintiff further moves that, if counsel for the Defendants proposes a theory of admissibility concerning any of the matters set forth in paragraph 3 hereof, the Court order that counsel for the Defendants first request a ruling thereon from the Court outside the presence and hearing of all prospective jurors and jurors ultimately selected to serve in this case.

WHEREFORE, Plaintiff, Courier Solutions, Inc., prays that the Court order counsel for the Defendants, the Defendants, as well as all of their representatives and any and all witnesses called on behalf of the said Defendants, to refrain from any mention, comment, statement, or reference, directly or indirectly, in any manner whatsoever, including the offering of any documentary evidence, relating to all of the matters set forth in this motion.

Respectfully submitted,

Law Offices of  
LIPPE & ASSOCIATES

By: /s/ Emil Lippe, Jr.  
Emil Lippe, Jr.  
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ATTORNEYS FOR PLAINTIFF  
COURIER SOLUTIONS, INC.

### **CERTIFICATE OF CONFERENCE**

The undersigned certifies that he has conferred with the attorneys for the Defendants concerning the substance of the Motion in Limine of Plaintiff, and that the following counsel oppose or do not oppose the motion:

<b><u>Attorney</u></b>	<b><u>Oppose/Unopposed</u></b>
Daniel Hoffman	Paragraphs G and L will be opposed; no opposition to paragraphs A-F, H-K, and M.

Signed this 20<sup>th</sup> day of September, 2010.

/s/ Emil Lippe, Jr.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 20<sup>th</sup> day of September, 2010, I electronically submitted the foregoing document with the Clerk of the Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court, which will then send a notification of such filing to the following:

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/s/ Emil Lippe, Jr.

Emil Lippe, Jr.

**CERTIFICATE OF SERVICE**

I certify that on this 15<sup>th</sup> day of February, 2006, the foregoing document was served upon all counsel of record as indicated below.

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/s/ Emil Lippe, Jr.